

**STATE OF WISCONSIN  
DEPARTMENT OF HEALTH AND FAMILY SERVICES  
DIVISION OF MANAGEMENT & TECHNOLOGY  
BUREAU OF FISCAL SERVICES**

**ACCOUNTING PROCEDURE**

TOPIC: Section 10-Special Expense 12.0	EFFECTIVE DATE: 4/10/06
TITLE: Employee Allowances for Work Related Items	REVISION DATE:
AUTHORIZED BY: Cheryl Thompson, Financial Manager	PAGE 1 OF 3

**POLICY**

There are several union contracts that include an allowance to employees for various work-related items. These allowances are taxable to the employee. See Attachment 1 -- SCO Issue Paper - Taxability of Payments to Employees for Clothes, Safety Shoes, Black Shoes, and Belts (2 Pages) for additional information.

**ATTACHMENTS**

1. SCO Issue Paper - Taxability of Payments to Employees for Clothes, Safety Shoes, Black Shoes, and Belts (2 Pages)

**REFERENCES**

IRS Publication 15-B - Employer's Tax Guide to Fringe Benefits  
IRS Publication 529 - Miscellaneous Deductions  
<http://www.irs.gov/formspubs/lists/0,,id=97819,00.html>

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ATTACHMENT 1 (Page 1 of 2)

Department of Administration  
State Controller's Office  
Audit Section

Issue: Taxability of Payments to Employees for Clothes, Safety Shoes, Black Shoes and Belts

Background:

Several of the Union Contracts contain provisions for payment of an allowance to employees for various items. Examples are as follows:

- WSEU Contract - Memorandum of Understanding # 40 - "The Union agrees that if DOC and DHFS pay every uniformed Correctional Officer, Youth Counselor and SRSTC and WRC Psychiatric Care Technician sixty-five (\$65.00) as a lump sum, calendar year payment for black belts and black shoes, the employees must wear black belts and black shoes consistent with the agency's uniform policy. Any such payment will not be made more than once in a calendar year."
- Safety shoes - The WSEU contract has various provisions regarding safety shoes in 9/10/1 to 9/10/5. In all sections the employer pays an allowance of from \$15 to \$40. Generally the allowance is paid on an expense check the first pay period after the effective date of the contract.
- Other contracts also have provisions for safety shoe allowances. Some also have allowances for uniforms.

IRS Rules:

IRS Publication 15-B is the Employer's Tax Guide to Fringe Benefits. The general rule in this publication is that any fringe benefits provided to an employee are taxable and must be included in the employee's pay unless the law specifically excludes it. The publication has various categories of fringe benefits that are excluded. The one that would apply to clothing provided to an employee is the Working Condition fringe. This covers property or services provided to the employee so that the employee can perform their job. If the item provided can be deducted by the employee as a business expense if he/she had purchased the item then the cost can be excluded from income. The employee must meet the substantiation rules for the deduction to be considered nontaxable. If the employer makes a cash payment to the employee for the business expense the employee must verify that the payment was actually used for that expense to be excluded from income.

The IRS issued the Public Employers Outreach Guide in May 2004. This is intended for Federal, State and Local Governments. This guide states, "Reimbursements for expenses paid to an employee must be accounted for by the employee on a timely basis. The expense must relate to employment. If there is no accountability, then the payments are a taxable fringe benefit subject to all employment taxes. Reimbursements may be made in the form of allowances for travel, tools, shoes or clothing. Remember that reimbursement for clothing that can be used for regular wear while not on duty is always a taxable fringe benefit."

Additionally this guide contains the following sections:

ATTACHMENT 1 (Page 2 of 2)

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**PUBLIC EMPLOYERS OUTREACH GUIDE**

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**d) Clothing Provided by the Employer**

Work clothing provided by the employer is not taxable to the employee if:

- 1) The employee must wear them as a condition of employment, and
- 2) The clothes are not suitable for everyday wear.

It is not enough that the employee wear distinctive clothing. The employer must specifically require the clothing. Nor is it enough that the employee does not, in fact, wear the work clothes away from work. The clothing must not be suitable for taking the place of your regular clothing.

The cost and upkeep of work clothes for firefighters, health care workers, law enforcement officers or letter carriers is nontaxable to the employee.

Similarly, the costs of buying and maintaining safety shoes or boots, safety glasses, hard hats and work gloves are not taxable if the purchases are substantiated under the accountable plan rules.

**e) Clothing Allowances For Police, Fire And Public Works**

If the clothing does not qualify as a deductible expense (i.e. is a uniform), then these payments must be treated as a taxable fringe benefit and are subject to all employment taxes. Thus, a police officer or firefighter uniform would qualify for exclusion from income if paid under an accountable plan and meets all the requirements of an accountable plan (qualified expense, substantiation, and return of excess). A detective's suit jacket and related clothing, since they are suitable for everyday wear, do not qualify as a uniform and are taxable to the employee.

See **Publication 15-B, Employer's Tax Guide to Fringe Benefits**, for more information.

Based on this section if the employee receives a cash allowance for items that qualify as a uniform but does not provide substantiation and documentation to show that the allowance was used to purchase these items then the amount of the allowance would be taxable to the employee. If the items can be used for every day wear they would be taxable to the employee even if substantiated.

Conclusion - Since substantiation and documentation are not required to receive the allowances for the safety shoes the payment to the employee would be taxable. In the case of the black shoes and black belt these items would probably be considered suitable for every day wear and would be taxable even if substantiated.